

UNITED STATES DISTRICT COURT

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WESTERN DIVISION
STATE OF WASHINGTON

NOV 15 2018

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JOAQUIN GARCIA, PETITIONER,

V.

STATE OF WASHINGTON, RESPONDENT.

AMERICAN WITH DISABILITIES ^{DEPUTY}
ACT OF 1990 PETITION FOR
WRIT OF HABEAS CORPUS
AND MOTION FOR THE
APPOINTMENT OF COUNSEL
PURSUANT TO 42 USCA
§10841PETITION **18-CV- 1663 BJR-MAT**

UNDER U.S. CONST. ARTICLE ONE AND THREE, U.S. CONST. AMEND. 1st, 4th, 5th, 6th, 8th,
AND 14th AMENDMENTS, THE AMERICAN WITH DISABILITIES ACT OF 1990, 28 USCA
§2254 (INCLUDING 28 USCA §2241 ET. SEQ.), 18 USCA §3006A, 42 USCA §10841 AND
ALL OTHER APPLICABLE LAW, PETITIONER RESPECTFULLY FILES THIS INITIAL
PETITION FOR WRIT OF HABEAS CORPUS AND PETITIONER REQUESTS THAT
THIS COURT APPOINT COUNSEL FOR PETITIONER TO PURSUE PETITIONER'S
AVAILABLE FEDERAL HABEAS CORPUS REMEDY AND FOLLOWING APPOINTMENT
OF COUNSEL, PROVIDE COUNSEL SUFFICIENT TIME TO INVESTIGATE AND PRESENT
ALL POSSIBLE CLAIMS FOR RELIEF, ON PETITIONER'S BEHALF IN A PETITION FOR
WRIT OF HABEAS CORPUS, AND FOLLOWING FURTHER PROCEEDINGS, GRANT PETITIONER
RELIEF FROM THE UNCONSTITUTIONAL JUDGMENTS IN THAT REVERSAL OF
PETITIONER'S KING COUNTY SUPERIOR COURT No. 14-1-05928-7 CASE
DISMISSAL BY WASHINGTON STATE COURT OF APPEALS AND ITS STATE
SUPREME COURT SUPPORTING THAT REVERSAL AFTER JUDGE TIMOTHY A.
BRADSHAW OF KING COUNTY SUPERIOR COURT DISMISSED PETITIONER'S CASE
ON WASHINGTON STATE'S OWN R.C.W. 9A.41.047 MANDATES.

THE PETITION OF JOAQUIN GARCIA RESPECTFULLY SHOWS:

- ① PETITIONER JOAQUIN GARCIA IS IMPRISONED AND/OR INCARCERATED AND RESTRAINED OF LIBERTIES AT KING COUNTY CORRECTIONAL FACILITY-DEPT. OF ADULT AND JUVENILE DETENTION, COMMONLY KNOWN AS 'KING COUNTY JAIL', LOCATED AT 500 FIFTH AVE., SEATTLE, WASHINGTON 98104.
- ② THE OFFICER OR PERSON BY WHOM PETITIONER IS SO DETAINED AND RESTRAINED IS THE 'STATE OF WASHINGTON' c/o King County Prosecutor Office.
- ③ THE CAUSE OR PRETENSE OF THE IMPRISONMENT AND RESTRAINT OF PETITIONER, ACCORDING TO PETITIONER'S BEST KNOWLEDGE AND BELIEF, AS HE HAS BEEN INFORMED, IS THE REVERSAL OF THE DISMISSAL OF PETITIONER'S CASE - KING COUNTY SUPERIOR COURT CAUSE NO. 14-1-05928-7 UNLAWFUL FIREARM POSSESSION CHARGE BY A COURT OF APPEALS JUDGE AND, EVEN MORE SO, AFTER A WASHINGTON STATE SUPREME COURT'S PERMITTING THAT REVERSAL TO STAND, REGARDLESS OF RCW MANDATES (AND CASE LAW) ESTABLISHING A REINSTATEMENT OF PETITIONER'S CASE DISMISSAL, AS PETITIONER HAS BEEN INFORMED AND BELIEVES, AS SAME RCW MANDATES ESTABLISHED PETITIONER'S CASE DISMISSAL.
- ④ THE IMPRISONMENT OF PETITIONER IS ILLEGAL IN THAT I, JOAQUIN GARCIA, PETITIONER, NEVER RECEIVED ANY TYPE OF NOTICE, AS REQUIRED BY WASHINGTON STATE LAW RCW 9A.41.047(2), ORALLY OR WRITTEN AND PETITIONER'S AFFIRMATIVE DEFENSE WAS SOLELY BASED ON THIS FACT THAT THE STATE CONCEDED TO-ADMITTING NEVER GIVING PETITIONER ANY NOTICE, WHICH THE STATE FAILED TO PROVE THAT THEY DID, WHICH THEY DIDN'T ANYWAY. PETITIONER FEELS THAT THE WASHINGTON STATE SUPREME COURT, WHO SUPPOSE TO BE THE

CHIEF STATE ENFORCERS AND ROLE MODELS THROUGHOUT THE WASHINGTON STATE JUDICIAL AND COURT SYSTEM BY ALWAYS EXEMPLIFYING RCW ADHERANCE, FIRST AND FOREMOST, THEN ANYONE ELSE IN THE STATE OF WASHINGTON, WHICH THEY'VE CHOSEN OR HAVE BEEN CHOSEN, TO UPHOLD AND RESPECT WITH HONOR AND DIGNITY THE LAWS AND STATUTES OF THIS STATE, INSTEAD CHOOSES TO FOLLOW AND SUPPORT THAT COURT OF APPEALS, A LOWER COURT, REVERSAL OF PETITIONER'S CASE DISMISSAL WHILE KNOWINGLY 'CREATING' AND/OR HYPOTHEZING AN EVIDENTIARY STANDARD TO CURE THEIR (THE 6 STATE SUPREME COURT JUDGE 'MAJORITY') VIOLATIONS OF RCW 9.41.047(2)(A). WITH THEIR OWN CHIEF JUDGE FAIRHURST DISAGREABLE (ALONG WITH ONLY TWO OTHER JUDGES) SPEAKING AND DEFENDING THE HONOR AND INTEGRITY OF THE RCW STATUTE (9.41.047) THAT IS UNQUALIFIED IN ITS 'MANDATE' IN DISPLAYING AND EXHIBITING JUDICIAL RESPECT FOR THE RCW'S, LET ALONE, FOR ONE (RCW 9.41.047) THAT 'MANDATES' RESPECT. THE FOLLOWING IS FROM 'STATE V. GARCIA' 420 P3d 1077 (2018) QUOTING FAIRHURST, C. J. DISSENTING (AND WITHIN THE BRACKETS): [RCW 9.41.047(2)(A) REQUIRES ORAL AND WRITTEN NOTICE OF THE INELIGIBILITY TO POSSESS FIREARM AT THE TIME A PERSON IS CONVICTED. I DISAGREE WITH THE MAJORITY'S CREATION OF AN EVIDENTIARY STANDARD TO CURE VIOLATIONS OF RCW 9.41.047(2)(A). I WOULD REVERSE THE COURT OF APPEALS AND REINSTATE THE TRIAL COURT'S DISMISSAL OF JOAQUIN GARCIA'S UNLAWFUL POSSESSION OF A FIREARM (UPFA) CHARGE IN THE FIRST DEGREE. GARCIA BROUGHT A PRETRIAL MOTION TO DISMISS HIS FIRST DEGREE UPFA CHARGE BECAUSE HIS 1994 PREDICATE OFFENSE FAILED TO COMPLY WITH THE NOTICE REQUIREMENTS OF RCW 9.41.047(2)(A). THE STATE CONCEDED THE LACK OF STATUTORY NOTICE."] WASHINGTON STATE SUPREME COURT CHIEF JUDGE FAIRHURST CONTINUES STATING [THIS COURT HAS ALREADY ESTABLISHED THAT

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 2 LACK OF NOTICE UNDER RCW 9.41.047(2) IS AN AFFIRMATIVE DEFENSE,
 3 WHICH (THE DEFENDANT) MUST ESTABLISH BY A PREPONDERANCE OF
 4 THE EVIDENCE" STATE V. BREITUNG 173 WASH. 2d 393, 403, -267 P.3d 1012
 5 (2011) WHICH PETITIONER DID. CHIEF JUDGE FAIRHURST CONTINUES ON
 6 STATING "[LACK OF NOTICE UNDER RCW 9.41.047(2) MEANS NOTICE PURSUANT
 7 TO THE STATUTE]" NOT TO HIS OR THEIR (MAJORITY'S) OWN FREE-WILL
 8 THINKING AND PRESUMED CONSTRUCTING. [THE STATUTE HAS THREE
 9 CLEAR REQUIREMENTS. STATE V. MINOR 162 WASH 2d 796, 803-174 P.3d
 10 1162 (2008) ('THE STATUTE IS UNEQUIVOCAL IN ITS MANDATE') FIRST,
 11 NOTICE MUST BE GIVEN "AT THE TIME A PERSON IS CONVICTED OR FOUND NOT
 12 GUILTY BY REASON OF INSANITY.... OR AT THE TIME A PERSON IS COMMITTED BY
 13 COURT ORDER." RCW 9.41.047(2)(A) (EMPHASIS ADDED). SECOND, NOTICE MUST BE
 14 GIVEN BY "THE CONVICTING OR COMMITTING COURT". ID. AND THIRD, NOTICE MUST
 15 BE GIVEN ORALLY AND IN WRITING. ID. "THE PRESENCE OF A NOTICE
 16 REQUIREMENT SHOWS THE LEGISLATURE REGARDED SUCH NOTICE OF DEPRIVA-
 17 TION OF FIREARMS RIGHTS AS SUBSTANTIAL.
 18 RELIEF CONSISTENT WITH THE PURPOSE OF THE STATUTORY REQUIREMENT
 19 MUST BE AVAILABLE WHERE THE STATUTE HAS BEEN VIOLATED" MINOR,
 20 162 WASH 2d AT 603-04, 174 P.3d 1162" - STILL QUOTING FAIRHURST, C.J.
 21 DISSENTING, IN THE BRACKETS. - BUT IF THE STATUTE HAS BEEN VIOLATED BY
 22 SAME 'MAJORITY', THEN WHAT RELIEF IS CONSISTENT WITH THAT, EVEN-
 23 MORE SO AFTER THAT 'RELIEF CONSISTENT' THAT WAS MADE
 24 AVAILABLE TO PETITIONER FOR SUCH VIOLATION, HAS BEEN TAKEN AWAY
 25 THROUGH AND/OR WITH MORE SAME STATUTE (RCW 9.41.047) VIOLATIONS?
 26 NOW, 'FAIRHURST, C.J.' CONTINUES ON STATING [FOLLOWING BREITUNG, PETITIONER

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 2 GARCIA ESTABLISHED HIS AFFIRMATIVE DEFENSE, WHICH THE STATE
 3 FAILED TO REBUT. DESPITE THE LANGUAGE OF THE STATUTE, THE
 4 MAJORITY CIRCUMVENTS THIS SIMPLE CONCLUSION"] (THE REIN-
 5 STATEMENT OF PETITIONER'S DISMISSAL?!)] AND HOLDS THAT NOTICE
 6 'NEED NOT BE CONTEMPORANEOUS' WITH THE CONVICTION AND CAN BE
 7 COMMUNICATED BY PEOPLE OTHER THAN THE COURT (E.G. COURT
 8 STAFF OR DEFENSE COUNSEL, ETC.). MAJORITY AT 1081. I (SAME CHIEF
 9 JUDGE FAIRHURST OF WHOM I'M STILL QUOTING) FIND THIS TO BE
 10 HUGELY PROBLEMATIC." - WHY AND WHAT MAKES THIS 'HUGELY
 11 PROBLEMATIC'? - CHIEF JUDGE FAIRHURST GOES ON STATING [IN
 12 'BREITUNG' WE AFFIRMED THE COURT OF APPEALS AND HELD THAT
 13 THE DEFENDANT WAS ENTITLED TO REVERSAL OF HIS UPFA CONVICTION.
 14 173 WASH2d AT 403, 267 P.3d 1012. AFTER EXPLAINING THAT LACK OF
 15 STATUTORY NOTICE IS AN AFFIRMATIVE DEFENSE TO UPFA, WE
 16 CONCLUDED THAT 'BREITUNG' WAS NOT NOTIFIED OF HIS FIREARM
 17 PROHIBITION AS REQUIRED UNDER RCW 9A.04.047(2) AND DID NOT OTHER-
 18 WISE HAVE NOTICE OF THE PROHIBITION AGAINST POSSESSION OF
 19 FIREARMS. ABSENT THAT NOTICE, HE WAS ENTITLED TO REVERSAL OF
 20 THE (UPFA) CONVICTION." Id AT 404, 267 P.3d 1012. THE 'OTHERWISE ACQUIRED
 21 ACTUAL KNOWLEDGE' STANDARD THAT THE MAJORITY FOCUSES ON
 22 COMES FROM THE 'BREITUNG' COURT OF APPEALS DECISION, WHICH WAS
 23 QUOTED WITHIN THIS COURT'S OPINION AS WELL..... THE COURT OF
 24 APPEALS CITED NO AUTHORITY FOR THAT STANDARD, NOR DID THIS
 25 COURT.] - STILL QUOTING 'FAIRHURST, C. J. IN 'STATE V. GARCIA' 420
 26 P.3d 1071 (2018), WITHIN THE BRACKETS). NOW, THE BIRTH OF A SELF-

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2 -CREATED? OPINION IS REVEALED, WITH ITS ORIGIN IN A LOWER COURT
3 (COURT OF APPEALS) AND A HIGHER COURT (STATE SUPREME COURT)
4 FOLLOWING AND LISTENING TO THIS COURT OF APPEALS EVEN THEN; BUT
5 HAVING NO AUTHORITY SUPPORT WHATSOEVER FROM EITHER
6 COURT SYSTEM FOR THIS, WHAT SEEMS, AN HYPOTHESIZED OPINION
7 UTILIZED TO DISRUPT AN RCW MANDATE THAT WAS PROVEN
8 BY PETITIONER 'GARCIA', WITH THAT 'RELIEF CONSISTENT' APPLIED
9 IN 'BRETTING' BUT TAKEN AWAY IN 'GARCIA', WHEN THE LATTER
10 MORE THAN PROVED (AND WITH THE STATE FULLY CONCESSING, FAILING
11 TO REBUT) THAT ABSENCE AND LACK OF RCW STATUTORY
12 NOTICE. CHIEF JUDGE FAIRHURST CONTINUES STATING IN HIS DISSENT
13 WHAT THE RCW STATUTE BLATANTLY SAYS [THE STATUTE CLEARLY
14 STATES WHAT IS REQUIRED. RCW 9A.047(1)(A) REBUTIAL EVIDENCE
15 MUST BE EVIDENCE THAT PROVES COMPLIANCE WITH THE STATUTE
16 (E.G. COURT TRANSCRIPTS, JUDGMENT AND SENTENCING DOCUMENTS,
17 VIDEO AND AUDIO RECORDINGS, TESTIMONY OR AFFIDAVITS FROM
18 PEOPLE WHO WERE PRESENT AT THE SENTENCING). THE MAJORITY'S
19 REBUTIAL STANDARD IS COMPLETELY UNRETHERED FROM THE
20 STATUTE AND SHOULD BE REJECTED.] - END QUOTING OF CHIEF
21 JUDGE FAIRHURST IN HIS DISSENT IN 'STATE V. GARCIA' 420 P.31
22 1077 (2018), WITHIN THE BRACKETS, EMPHASIS ADDED.) —

23 Though PETITIONER IS NOT A LAWYER, HE IS INFORMED AND BELIEVES
24 AND BASED ON THAT INFORMATION AND BELIEF, PETITIONER GARCIA FEELS HE
25 HAS SUFFERED AND IS SUFFERING ARBITRARY AND CAPRICIOUS PREJUDICES
26 AT THE HANDS OF THAT 'MAJORITY' DECISION, EVEN MORE SO, BY NOT

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2 FOLLOWING THEIR OWN PRECEDENT SET BY THEMSELVES, THROUGH THIS
3 SAME STATUTE-RCW 9.41.047, IN 'BREITUNG', BUT RESPECTED AND
4 HONORED BY CHIEF JUDGE FAIRHURST. PETITIONER MOST CLEARLY
5 ESTABLISHED HIS AFFIRMATIVE DEFENSE AS RCW 9.41.047 STATUTORY
6 REQUIREMENT MANDATED TO DO. BUT IT ALSO MANDATED FOR THE
7 STATE TO PROVE IT GAVE STATUTORY (ORALLY AND WRITTEN) NOTICE
8 AT TIME OF CONVICTION-NOT AFTER (DAYS, MONTHS, AND YEARS LATER)
9 THE FACT (TIME OF CONVICTION) OR EVEN BEFORE IT. ITS THREE CLEAR
10 REQUIREMENTS ARE NOT MULTIPLE CHOICES. PETITIONER, AS HE HAS
11 BEEN INFORMED AND BELIEVES, FAIL TO SEE AND UNDERSTAND HOW
12 THE LOWEST OF THESE THREE WASHINGTON COURTS (KING COUNTY
13 SUPERIOR, TIMOTHY BRADSHAW, JUDGE) COULD EASILY EXECUTE
14 RCW REQUIRED JUDICATURE, BUT A 'MAJORITY' (SIX JUDGES OF THE
15 STATE HIGHEST COURT) FOUND IT EXTREMELY DIFFICULT, IF NOT
16 IMPOSSIBLE, TO DO THE SAME AS THAT RCW STATUTE MANDATES
17 AND NOT AS THEIR OWN SELVES WANTED, IN CREATING A
18 CIRCUMVENTION TO INFLECT UPON PETITIONER JOAQUIN GARCIA AND,
19 EVEN WORSE, UPON THE INTEGRITY OF THEIR OWN JUDICATURE
20 MANDATES IN 'BREITUNG'. PETITIONER FEELS HIS AFFIRMATIVE
21 DEFENSE THROUGH THIS RCW STATUTORY MANDATES OBLIGATIONS FOR
22 THE STATE AND, ESPECIALLY, THE 'MAJORITY' TO ADHERE, BUT FAILED
23 TO, VIOLATING RCW 9.41.047(2)(A) IN THE PROCESS - WARRANTS, PETITIONER
24 FEELS REINSTATEMENT OF PETITIONER'S KING COUNTY SUPERIOR COURT
25 NO. 14-1-05928-7 (UNLAWFUL FIREARM POSSESSION (UPFA)) CASE
26 DISMISSAL IN THAT FURTHERANCE OF JUSTICE.

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⑤ THE DEPARTMENT OF JUSTICE (DOJ) WAS DELEGATED THE AUTHORITY BY CONGRESS TO PROMULGATE REGULATIONS IMPLEMENTING THE AMERICANS WITH DISABILITIES ACT OF 1990 ("ADA") UNDER 42 U.S.C.A. §12124(a). THE DOJ'S REGULATIONS PROVIDE THAT "ALL PROGRAMS, SERVICES, AND REGULATORY ACTIVITIES RELATING TO LAW ENFORCEMENT, PUBLIC SAFETY, AND THE ADMINISTRATION OF JUSTICE, INCLUDING COURTS AND CORRECTIONAL INSTITUTIONS, ARE GOVERNED BY THE ADA. 28 C.F.R. §35.140(b)(6). UNDER THE LANGUAGE OF THE ADA AND THE DOJ'S REGULATIONS, ADA IS APPLICABLE TO DEFENDANT 'STATE OF WASHINGTON' WITHIN AND/OR THROUGH ITS ENTITY 'KING COUNTY' WITH ALL OF ITS ENTITIES, OFFICES, AGENCIES AND AFFILIATES INCLUDING KING COUNTY CORRECTIONAL FACILITY AT SEATTLE AND WESTERN STATE HOSPITAL IN TACOMA, BOTH IN THE STATE OF WASHINGTON. TITLE II OF THE ADA PROHIBITS THE EXCLUSION OF PERSONS WITH DISABILITIES FROM PARTICIPATING IN, OR DENYING THE BENEFITS OF, THE GOODS SERVICES, PROGRAMS AND ACTIVITIES OF THE ENTITY OR OTHERWISE DISCRIMINATING AGAINST PERSONS ON THE BASIS OF DISABILITY. 42 U.S.C.A. §12132.

PETITIONER WAS AND IS A DISABLED PERSON AS DEFINED BY 42 U.S.C.A. §12101, §12102, §12131(1) AND (2), 42 U.S.C.A. §10841.

PURSUANT TO THE OBLIGATIONS OF THE ADA AND 42 U.S.C.A. §10841, DEFENDANTS WERE REQUIRED TO PROVIDE PETITIONER, AS A MENTALLY DISABLED INMATE, WITH THE MEANS TO ACCESS THOSE CRITICAL SERVICES THAT PETITIONER'S DISABILITIES NEED AND WARRANTS.

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2 IN 2009, PETITIONER SUFFERED AN HORRENDOUS TRAUMATIC ACCIDENT,
3 SUFFERING UPON HIM SEVERE BRAIN INJURIES AND DAMAGE, PHYSICALLY
4 AND, EVEN MORE, MENTALLY. THIS ACCIDENT AND ITS AFTERMATH
5 HAS LEFT PETITIONER A PERMANENCE OF ACUTE MENTAL
6 ILLNESS, PSYCHOSIS, AND PSYCHOSOMATIC SCHIZOPHRENIC, LEAVING
7 PETITIONER, AFTER NUMEROUS ASSESSMENTS, TO REQUIRE MENTAL
8 HEALTH TREATMENTS FROM SOUND MENTAL HEALTH AND ITS AGENCIES,
9 KING COUNTY MENTAL HEALTH COURT, AND NUMEROUS STAYS
10 OF IN-PATIENT ASSESSMENTS AT WESTERN STATE HOSPITAL,
11 WITH A 45-DAY PENDING RE-ASSESSMENT IN-PATIENT COURT-
12 ORDER RETURN AND STAY (THE 5th OR 6th OF THIS PRESENT
13 DETENTION). BUT 'KING COUNTY CORRECTIONAL FACILITY', BEING PART OF
14 'STATE OF WASHINGTON' ENTITY 'KING COUNTY', TO WHICH THE ADA,
15 IS APPLICABLE WITH IT BEING A STATE CORRECTIONAL INSTITUTION,
16 IN ITS FAILURE TO PROVIDE PETITIONER WITH THAT REQUESTED ASSISTANT
17 OF 42 U.S.C. § 19841 (2)(L)(IV) TO FACILITATE PETITIONER'S ACCESS TO
18 THOSE SERVICES, AND FAILED TO ACCOMMODATE PETITIONER'S DISABILITY BY
19 REPEATEDLY PUNISHING PETITIONER FOR, AND BECAUSE OF, HIS MENTAL
20 DISABILITIES TO THE PERMANENCE OF AN IMU STATUS, SINCE 2016-
21 STRIPPING HIM OF ALL THE LIBERTIES (IF ANY) HE HAD LEFT FOR PERIODS
22 UP TO 60 DAYS AT A TIME (WITH NOTHING LESS THAN 48 HOURS) OF
23 STRAIGHT DEADLOCK, NOT EVEN AN HOUR OUT DURING THOSE 60 DAYS IN SAME
24 PRESENT 11 EAST, LOWER A UNIT, CELL 5. PETITIONER HAVE BEEN ON FORCED
25 ISOLATION AND SECLUSION FOR 2 YEARS HERE ON 11th FLOOR IN
26 KING COUNTY JAIL, WITH NUMEROUS ATTACKS UPON HIM AND HIS DISABILITIES

BY JAIL STAFF; THE CONTINUING AFTERMATH SINCE THAT ILLICIT REVERSAL OF PETITIONER'S CASE DISMISSAL, WORSENING THAT THROUGH AND WITH THEIR CONTINUATION OF INSTITUTIONALIZING DEROGATIVE SUPPOSEDLY MENTAL HEALTH POLICIES AND PROCEDURES THAT FULLY CONTRADICTS AND VIOLATES PETITIONER'S DUE PROCESS RIGHTS, AFFORDED TO HIM, THROUGH AND WITHIN 42 U.S.C.A. SECTION 19841.

DEFENDANT'S FAILURE TO PROVIDE PETITIONER WITH THAT MENTAL HEALTH ASSISTANCE OR OTHER MEANS OF PROGRESSIVE, AND NOT REGRESSIVE (E.G. YEARS OF IMU'S, UNSANCTIONED SEGREGATIONS, ETC), ACCOMMODATIONS SO THAT PETITIONER COULD FULLY ACCESS AND RECEIVE THE HELP AND SERVICES, AS SET FORTH ABOVE, CONSTITUTED UNLAWFUL AND INTENTIONAL DISCRIMINATION ON THE BASIS OF DISABILITY IN VIOLATION OF TITLE II OF THE ADA. DEFENDANT'S FAILURE TO COMPLY WITH THEIR OBLIGATIONS UNDER THE ADA CONTRIBUTED TO THE SEVERE PHYSICAL AND MENTAL DETERIORATION OF PETITIONER, THROUGH ISOLATION, INTIMIDATION, AND EXCLUSION, TO PETITIONER'S DAMAGE, AS SET FORTH WITHIN THIS PETITION.

⑥ PETITIONER INVOKES THE COURTS JURISDICTION UNDER 28 U.S.C.A. SECTION 2241 ET. SEQ. INCLUDING 28 U.S.C.A. SECTION 2254, 28 U.S.C.A. §1331, 42 U.S.C.A. SECTION 2000A-6. VENUE IS PROPER UNDER 28 U.S.C.A. §1391(A), (B).

⑦ ALTHOUGH PETITIONER IS INDIGENT AND WITHOUT COUNSEL, PETITIONER WISHES TO FILE A FULL AND COMPLETE PETITION FOR WRIT OF HABEAS

CORPUS IN THIS COURT. PETITIONER SEEKS TO RAISE ALL POSSIBLE ISSUES IN PETITIONER'S CASE. PETITIONER WISHES TO HAVE THIS COURT CONSIDER, AMONG OTHER CLAIMS, ANY AND ALL CLAIMS RAISED AT TRIAL, DIRECT APPEAL, AND IN POSTCONVICTION PROCEEDINGS. PETITIONER'S WASHINGTON STATE SUPREME COURT NO. 94457-1 OPINION OF ITS SAME STATE LOWER COURT OF APPEALS REVERSAL OF KING COUNTY SUPERIOR COURT, TIMOTHY BRADSHAW, JUDGE-DISMISSAL OF PETITIONER'S CASE-NUMBER 14-1-05928-7, HAS BEEN PUBLISHED AT 420 P.3d 1077; COURT OF APPEALS OPINION HAS BEEN PUBLISHED AT 198 WASH. App. 527, 393 P.3d 1243. PETITIONER GIVES REFERENCE TO THESE CASES TO INFORM THE COURT OF THE ISSUE(S) ON WHICH PETITIONER SEEKS RELIEF.

- ⑧ BECAUSE PETITIONER IS NOT A LAWYER, AND IS AN A.D.A. MENTALLY DISABLED INMATE, BEING SUBJECTED TO THE ILLICIT AFTERMATH FROM THE DEFENDANT(S)-COMPOUNDING THE BRAIN TRAUMA WHICH SPAWN HIS MENTAL DISABILITIES, PETITIONER CANNOT PRESENT THIS CASE TO THE COURT AND DOES NOT KNOW WHAT OTHER ISSUES NEED TO BE INVESTIGATED AND RAISED BEFORE THIS COURT. BECAUSE OF PETITIONER'S SERIOUS DISABLED DOCUMENTED DETERIORATING CONDITION, PETITIONER IS ENTITLED TO COUNSEL UNDER 18 U.S.C.A. SECTION 3006A AND 42 U.S.C.A. SECTION 10841(1)(L)(IV) FOR THE PURPOSE OF RECEIVING ASSISTANCE TO UNDERSTAND, EXERCISE, AND PROTECT THE RIGHTS DESCRIBED... AND IN OTHER PROVISIONS OF LAW: 'A QUALIFIED ADVOCATE' NOT IN CONNIVANCE WITH THE DEFENDANTS OR ANY OF ITS ENTITIES AND AFFILIATES. PETITIONER THEREFORE REQUESTS THAT THIS COURT APPOINT COUNSEL WHO CAN PROPERLY INVESTIGATE AND

PRESENT ALL POSSIBLE CLAIMS FOR RELIEF.

⑨ FURTHER, BECAUSE PETITIONER IS WITHOUT COUNSEL, ONCE COUNSEL IS APPOINTED, COUNSEL WILL REQUIRE SUFFICIENT TIME TO LEARN ABOUT THE CASE, THE ISSUES IN THE CASE, AND INVESTIGATE, PREPARE, AND PRESENT ALL POSSIBLE CLAIMS FOR RELIEF, INCLUDING THOSE ISSUES MENTIONED ABOVE. THIS COURT SHOULD GRANT SUFFICIENT TIME TO COUNSEL (ONCE COUNSEL IS APPOINTED) TO ALLOW NECESSARY AMENDMENT TO PERMIT CONSIDERATION OF ALL CLAIMS FOR RELIEF ARISING FROM PETITIONER'S REVERSAL OF THAT KING COUNTY SUPERIOR COURT NO. 14-1-05928-7 CASE DISMISSAL.

⑩ PETITIONER WOULD ALSO BE ENTITLED TO FUNDS FOR INVESTIGATIVE AND EXPERT ASSISTANCE UNDER 18 U.S.C.A. SECTION 3006A. PETITIONER ALSO REQUESTS, THAT ONCE COUNSEL AND/OR ADVOCATE IS APPOINTED, THE COURT SHOULD PROVIDE SUFFICIENT TIME TO OBTAIN INVESTIGATIVE AND EXPERT ASSISTANCE, AND THAT SUCH INVESTIGATIVE AND EXPERT ASSISTANCE BE PROVIDED. PETITIONER WOULD ALSO REQUEST DISCOVERY UNDER HABEAS RULE 6, AND AN EVIDENTIARY HEARING. THESE REQUESTS ARE ALSO NECESSARY TO ENABLE COUNSEL TO PROPERLY AND FULLY PRESENT A PETITION FOR WRIT OF HABEAS CORPUS TO THIS COURT.

⑪ PETITIONER INVOKES THIS COURT'S HABEAS JURISDICTION UNDER 28 U.S.C.A. SECTION 2254 (INCLUDING 28 U.S.C.A. SECTION 2241), AND FILES THIS INITIAL PETITION FOR WRIT OF HABEAS CORPUS, WHICH INCLUDES BUT IS NOT

LIMITED TO THOSE CLAIMS PRESENTED IN THE STATE COURTS AND IN
 THE WASHINGTON SUPREME COURTS AND IN THE WASHINGTON COURT OF
 (CRIMINAL) APPEALS. BECAUSE PETITIONER IS INDIGENT AND WITHOUT COUNSEL,
 PETITIONER REQUESTS APPOINTMENT OF COUNSEL UNDER 18 U.S.C.A. SECTION
 3006A AND QUALIFIED ADVOCATE UNDER 42 U.S.C.A. SECTION 10841.
 PETITIONER ALSO REQUESTS THAT APPOINTED COUNSEL BE GIVEN SUFFICIENT
 TIME TO INVESTIGATE AND PRESENT ALL POSSIBLE CLAIMS FOR RELIEF
 IN THIS COURT, AND THAT, ON PROPER REQUEST, COUNSEL BE GIVEN
 INVESTIGATIVE AND EXPERT ASSISTANCE UNDER 18 U.S.C.A. SECTION 3006A AND
 42 U.S.C.A. SECTION 10841. PETITIONER ALSO REQUESTS NECESSARY DISCOVERY
 UNDER HABEAS RULE 6 WHICH MAY BE REQUESTED BY APPOINTED
 COUNSEL. PETITIONER ALSO REQUESTS AN EVIDENTIARY HEARING, AND REQUESTS
 THAT THIS COURT GRANT A WRIT OF HABEAS CORPUS DISCHARGING PETITIONER
 THROUGH THE RE-INSTATEMENT OF PETITIONER GARCIA'S 14-1-05928-7
 CASE DISMISSAL BY REVERSING A WASHINGTON STATE SUPREME COURT'S
 MAJORITY'S ILLICIT UNCONSTITUTIONAL DECISION(S) —.

DATED 11 / 12 / 2018

Signed, *[Signature]*
 PRINT NAME JOAQUIN DAVID GARCIA

ATTESTATION OF PREPARATION—

I, JOAQUIN DAVID GARCIA, though PETITIONER IN THIS ACTION, DID NOT WRITE OR PREPARE
 THIS INITIAL PETITION, BUT ONLY BEAR WITNESS TO ITS PREPARATION UNDER MY EYE BY ANOTHER
 INDIVIDUAL. THE BRAIN TRAUMA I'VE SUFFERED AND IS SUFFERING THROUGH MY FORCED MENTAL
 AFTERMATH HINDERS AND WILL NOT LET ME. I BEAR WITNESS TO THE EXPLAINED FACTS.

Name **JOAQUIN DAVID GARCIA**

Bkg. # **214030390**

King County Correctional Facility

500 Fifth Avenue

Seattle, WA 98104-2332



NOV 15 2018

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BY DEPUTY

CLERK, UNITED STATES DISTRICT COURT

UNITED STATES COURTHOUSE

700 STEWART STREET, SUITE 2310

SEATTLE, WASHINGTON 98101

9810134435 0028



MAIL - FEDERAL LEGAL MAIL - FEDERAL LEGAL



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